

RATTET, PASTERNAK & GORDON-OLIVER, LLP
Attorneys for the Petitioning Creditors
550 Mamaroneck Avenue
Harrison, New York 10528
(914) 381-7400
Robert L. Rattet
Dawn Kirby Arnold
Jared A. Ullman

Hearing Date: March 11, 2010
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 11
Case No. 09-24392 (RDD)

CHEFS DIET ACQUISITION CORP.,

Debtor.

-----X

**MOTION OF PETITIONING CREDITORS FOR AN ORDER
DISMISSING THE INVOLUNTARY CHAPTER 11 CASE**

**TO: THE HONORABLE ROBERT D. DRAIN:
UNITED STATES BANKRUPTCY JUDGE:**

1. The Petitioning Creditors (i) West-Conn Meat Co., Inc. (ii) M. Tucker Co., Inc.; (iii) Lance Kasak, Inc. d/b/a Everything Epicurean; and (iv) Pelican Bay Ltd. d/b/a The Ravioli Store (the "Petitioning Creditors") of the above-captioned involuntary chapter 11 debtor Chefs Diet Acquisition Corp. ("CDAC"), by their attorneys Rattet, Pasternak & Gordon-Oliver, LLP, as and for their application for an Order, pursuant to Sections 105, 303(j), 305 and 1112(b) of Title 11 of the United States Code (the "Bankruptcy Code"), dismissing the Involuntary Chapter 11 proceeding¹, respectfully represent as follows:

BACKGROUND

2. On December 22, 2009, (the "Filing Date"), the Petitioning Creditors filed an

¹ This Application is with the consent of CDAC within the meaning of Bankruptcy Code 303(i).

involuntary petition for reorganization of CDAC pursuant to Chapter 11 of the Bankruptcy Code (the "Code").

3. On January 13, 2010, original petitioning creditor Imperial Bag & Paper Co., LLC filed a Notice of Withdrawal as a petitioning creditor.

4. On January 13, 2010, Pelican Bay Ltd. d/b/a The Ravioli Store filed a Notice of Joinder as a petitioning creditor.

5. On January 13, 2010, CDAC filed an Answer to the Involuntary Petition.

6. Upon information and belief, CDAC paid creditor Lance Kasak, Inc. d/b/a Everything Epicurean \$6,529.80, representing the full amount alleged due in the Involuntary Petition, by wire transfer to the creditor's bank account without the creditor having prior knowledge or involvement in receipt of the payment.

7. Upon information and belief, CDAC paid creditor Pelican Bay Ltd. d/b/a The Ravioli Store \$1,000.00, representing the full amount alleged due in the Involuntary Petition, by delivery of a check in that amount.

8. Upon information and believe, CDAC reached an agreement with creditor West-Conn Meat Co., Inc. providing for payment of substantially all of its claim alleged due in the Involuntary Petition, by agreement to make payments over several months.

9. Upon information and believe, CDAC reached an agreement with creditor M. Tucker Co., Inc. providing for payment of substantially all of its claim alleged due in the Involuntary Petition, by agreement to make payments over several months.

10. CDAC has requested the Petitioning Creditors move to dismiss the case and the parties consent within the meaning of Bankruptcy Code 303(i) that dismissal is both consensual and warranted.

11. On February 11, 2010, CDAC provided a list of its creditors with addresses to the Petitioning Creditors. Each of CDAC's creditors will be served with the instant motion seeking dismissal of the Involuntary Chapter 11.

BASIS FOR RELIEF SOUGHT

12. Pursuant to §303(j)(2) of the Bankruptcy Code, after notice to all creditors and a hearing, the Court may dismiss an Involuntary Petition on consent of all petitioners and the debtor.

13. The Petitioning Creditors and CDAC have resolved their differences, and believe that dismissal of the Involuntary Petition is in the best interests of all the creditors.

14. Based upon the foregoing, the Debtor respectfully submits that dismissal is both appropriate and warranted.

15. The Debtor requests that the requirement to file a memorandum of law be waived because the issues are not novel and applicable statutory provisions are incorporated herein.

16. No prior application for the relief requested herein has been made.

WHEREFORE, the Debtor requests that the Court enter an Order dismissing the Involuntary Chapter 11 proceeding, together with such other and further relief as is just and proper.

Dated: Harrison, New York
February 18, 2010

RATTET, PASTERNAK & GORDON-OLIVER, LLP
Attorneys for the Petitioning Creditors

BY: /s/ Dawn Kirby Arnold
Dawn Kirby Arnold
550 Mamaroneck Avenue
Harrison, NY 10528
(914) 381-7400